

## WATER COUNCIL MEETING

Dept. of Environmental Services  
29 Hazen Dr., Concord, N.H.

November 9, 2005  
9:00 a.m.

**Members present:** Councilors Bridges, Bradley, Butler, Cowan, Densberger, DiMarzio, Lussier, Lyons, Phillips and Varotsis

**Members absent:** Councilors Barrett, Dupee, Frost, Glines, Ingham and Patenaude

John Bridges, Chairman, called the meeting to order at 9:00 a.m.

**1. Approval of Minutes of October 12, 2005 Meeting**

***A motion was made by Councilor Bradley to accept the minutes of the October 12, 2005 meeting as presented. The motion was seconded by Councilor Phillips and unanimously voted.***

**2. Approval of State Aid Grants**

Steve Snell of the Wastewater Engineering Bureau requested approval of two state aid grants as set forth in a memo from Bureau Administrator John R. Bush, P.E. to Harry T. Stewart, P.E., Director, Water Division dated October 28, 2005.

***Councilor Varotsis moved to approve the grants and recommend favorable action by the Governor and Executive Council by adoption of the following resolution in its entirety. Councilor Bradley seconded the motion and it was unanimously voted.***

WHEREAS, The following municipalities have applied to the Department of Environmental Services, under the provisions of RSA 486, for grants in the amounts listed to aid in the defraying of the costs resulting from the construction of sewage disposal facilities, as defined in said Chapter:

<u>MUNICIPALITY</u>	<u>PROJ. NO.</u>	<u>PROJECT DESCRIPTION</u>	<u>AMOUNT</u>
Dover	C-705	Infiltration/Inflow Reduction	\$ 185,312
Portsmouth	C-706	Sewerage Improvements Prog. Phase II	3,702,987

WHEREAS, The Department of Environmental Services has examined said applications as to the eligibility of the construction costs for State contributions; and

WHEREAS, The Water Council finds that said projects are intended to control or reduce pollution in the surface waters of the State as defined in RSA 485-A;

NOW THEREFORE, The Water Council finds that all of the provisions of RSA 486 have been met by said applicants and respectfully recommends that the Governor and Executive Council approve said grants and authorize payment thereof through the Department of Environmental Services as provided for in said Chapter.

**3. Status of Appeals**

Michael Sclafani distributed an Appeals Status Report and reviewed pending appeals with the council.

- **Docket No. 03-10 WC - Appeal of Conservation Law Foundation**  
On October 28, 2005, a Decision & Order was issued denying appellants assertion that DES lacked authority to issue the 401 Water Quality Certificate. The appeal is scheduled to be heard at 10:00 a.m. today.
- **Docket No. 03-14 WC - Appeal of Gerald A. Bell**  
A stay remains in effect on this appeal pending the resolution of a declaratory judgment action before the Merrimack County Superior Court. A second status conference is scheduled with the court in December, after which a trial will be scheduled.
- **Docket No. 04-05 WC - Appeal of Freudenberg-NOK General Partnership**  
A stay remains in effect on this appeal pending a ruling by the Grafton County Superior Court on the state's petition for declaratory judgment. The parties have resumed settlement discussions.
- **Docket No. 04-18 WC - Appeal of Thaddeus Dymon**  
A stay remains in effect pending the resolution of a boundary line dispute in superior court.
- **Docket No. 04-19 WC - Appeal of Town of Newport**  
See Docket No. 04-18 above.
- **Docket No. 05-07 WC - Appeal of FOCUS Tamworth**  
An appeal hearing is scheduled on December 14, 2005 at 10:00 a.m.
- **Docket No. 05-16 WC - Appeal of Pollard Realty Trust**  
A pre-hearing conference is scheduled for December 5, 2005.
- **Docket No. 05-17 WC - Appeal of Daniel Osborn**  
A pre-hearing conference is scheduled for December 5, 2005.

**4. Shoreland Protection Act Commission Status**

Rene Pelletier, P.G. Asst. Director, Water Division, reported on the status of the Shoreland Protection Act Commission. The commission is in the process of information gathering. DES and the Attorney General's office have presented examples of four major issues relating to boathouses, buildings, land clearing and accessory structures. It is anticipated that at the next meeting, subcommittees will be formed to look at each of these issues. The commission meets the second Monday of each month through June

**5. Legislative Update**

Harry T. Stewart, P.E., Director, Water Division, distributed a list of LSRs which will be monitored by DES. Mr. Stewart expects to have bill language available at the council's December meeting.

**6. Other Business**

Harry Stewart explained that the Wastewater Engineering Bureau is in the process of updating Env-Ws 700, Standards of Design for Sewerage and Waste Treatment Facilities Rules. In order to allow the rules to be adopted prior to the expiration of the bureau's interim rules, the formal rulemaking process will need to go forward prior to the council's December meeting with the understanding that the councilors will be provided an initial proposal and opportunity to comment at its December meeting.

**7. Next Meeting**

The next meeting will be held December 14, 2005.

**8. Adjournment**

***A motion was made by Councilor Varotsis to adjourn. The motion was seconded and unanimously voted.***

The meeting adjourned at approximately 9:30 a.m.

Councilor Barry Lussier arrived.

**APPEAL HEARING**

10:00 a.m. - The Water Council convened with Vice Chairman DiMarzio presiding over the hearing of Docket No. 03-10 WC - Appeal of the Conservation Law Foundation.